

Law Offices
Donald J. Balsley, Jr.

Suite 519, Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222
(412) 765-1760

RECORDATION NO. 14878, Filed 1425

JAN 9 1986 -2 40 PM

January 7, 1986

INTERSTATE COMMERCE COMMISSION

14878

RECORDATION NO. 14878, Filed 1425

Re: Dollar Bank, Federal Savings Bank
Lease Financing Corporation
File 0201

JAN 9 1986 -2 40 PM

INTERSTATE COMMERCE COMMISSION

No. C-009A067

Date JAN 9 1986

Fee \$ 20.00

Ms. Mildred E. Lee
Interstate Commerce Commission
12th & Constitution Avenues, N.W.
Room 2303
Washington, D.C. 20423

Washington D.C.

Dear Ms. Lee:

There are enclosed for recordation with the Interstate Commerce Commission the following documents.

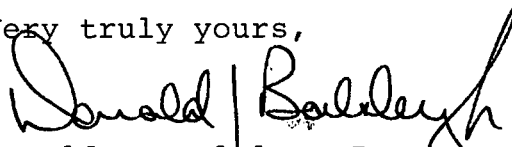
- (1) Purchase Agreement between Dollar Bank, Federal Savings Bank, and Birch Leasing Corporation.
- (2) Bill of Sale from Dollar Bank, Federal Savings Bank, to Birch Leasing Corporation.

The first of these two documents should be assigned a new recordation number and the second of these two documents should be assigned the new recordation number-A.

There is enclosed my check in the amount of \$20.00 made payable to the Interstate Commerce Commission to cover the filing fee with respect to this recordation as well as the original and two counterparts of each document.

You are requested to confirm the recordation of these documents upon the copy of this transmittal letter. There is enclosed a self-addressed, stamped envelope for your convenience in returning the confirmation to me.

Very truly yours,


Donald J. Balsley, Jr.

DJB:llh
Enclosures

100 OFFICE OF
THE STOREMAN
JAN 9 2 39 PM '86
MCCB OPERATING UNIT

Law Offices
Donald J. Balsley, Jr.

Suite 519, Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222
(412) 765-1760

February 27, 1986

Re: Dollar Bank, Federal Savings Bank
Lease Financing Corporation
File 0201

Ms. Mildred E. Lee
Interstate Commerce Commission
12th and Constitution Avenues, N.W.
Room 2303
Washington, D.C. 20423

Dear Ms. Lee:

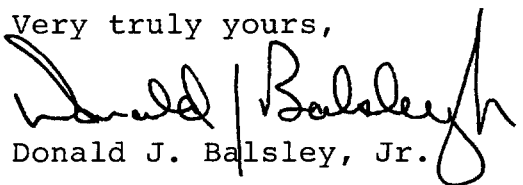
Pursuant to our telephone conversation on February 21, 1986,
there are enclosed the following:

- (1) A Schedule 1 which should be attached to the Purchase Agreement recorded on January 9, 1986, and bearing Recordation Number 14878, and
- (2) An Exhibit A which should be attached to the Bill of Sale recorded on January 9, 1986, and bearing Recordation Number 14878-A.

There are enclosed two (2) copies of Schedule 1 and two (2) copies of Exhibit A.

Your assistance and cooperation are greatly appreciated.

Very truly yours,


Donald J. Balsley, Jr.

DJB:clb
Enclosures

14878
RECORDATION NO. Filed 1425

JAN 9 1986 - 2 40 PM

INTERSTATE COMMERCE COMMISSION PURCHASE AGREEMENT

COUNTERPART

PURCHASE AGREEMENT dated as of December 31, 1985, between DOLLAR BANK, Federal Savings Bank, formerly known as Dollar Savings Bank, hereinafter referred to as "Dollar Bank" and/or "Seller," and BIRCH LEASING CORPORATION, a Pennsylvania corporation, hereinafter referred to as "Birch" and/or "Buyer."

WHEREAS, Dollar Bank has agreed to sell to Birch ninety-six (96) units of railroad equipment as described on Schedule 1 hereto, each unit of railroad equipment being hereinafter referred to as "Item" and all Items being hereinafter referred to as the "Equipment," and

WHEREAS, Dollar Bank has previously entered into a Management Agreement dated as of June 30, 1983, as supplemented by Rider No. 1 dated as of January 17, 1984, and as amended by Amendment No. 1 dated as of May 15, 1984, hereinafter collectively referred to as the "Agreement," with BRAE Transportation, Inc., hereinafter referred to as "BRAE," and

WHEREAS, the BRAE Agreement applies to and covers all of the Equipment to be sold by Dollar Bank to Birch, and

WHEREAS, the Seller and Buyer wish to set forth in one document the terms of their agreement relating to the sale of the Equipment, and

WHEREAS, Dollar Bank and Birch further wish to set forth their agreement relating to the assignment of the BRAE Agreement and the settlement of any outstanding matters relating thereto.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and agreements hereinafter set forth and subject to the terms and conditions hereinafter set forth, the Seller agrees to sell and the Buyer agrees to purchase the Equipment and Dollar Bank agrees to assign and Birch agrees to be bound by the BRAE Agreement.

1. Nature of Equipment. The Items which are the subject matter of this Agreement are described in Schedule 1 attached to and made a part of the Agreement.

2. Express Warranties. Seller affirms, with respect to the Equipment being sold hereunder, and as part of the basis of the bargain, that all Items are presently subject to the BRAE Agreement, that all Items are in existence and in service and except for two Items are subject to agreements under which they are earning revenues, hereinafter referred to as "Lease Agreements," and that all Items are being sold "AS IS, WHERE IS" and that there are no express warranties.

3. Disclaimer of Express and Implied Warranties. The warranties set forth in Paragraph 2 are in lieu of all other warranties of the Seller, whether written, oral or implied with respect to this agreement or the Equipment; and the Seller shall not be deemed to have made, and the SELLER HEREBY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OF THE EQUIPMENT, THEIR MERCHANTABILITY OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT, NOR SHALL THE SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT).

4. Warranty of Title. Seller represents and warrants that it has legal title to and the right to sell the Equipment, and that, upon payment of the Purchase Price, Seller shall transfer to Buyer or its assignee good and marketable title to the Equipment, free and clear of all or any claims, liens and encumbrances.

5. Inspection. Buyer has the right to inspect all Equipment.

6. Placement Expenses. Except for the two Items not subject to Lease Agreements, Seller represents that the initial placement costs and expenses for the Equipment have been incurred and paid and, in the event said representation is found to be without merit, the Seller shall be responsible for any and all initial transportation costs and/or costs resulting from initially placing railroad marks on the Equipment, provided, however, that Birch will remit to Dollar Bank sufficient revenues collected after the date of this Agreement on Items marked with "TSBY" railmarks in the event and to the extent that Dollar Bank is required to pay after the date of this Agreement any initial placement costs and/or costs resulting from Items bearing "TSBY" railmarks. Initial placement costs and expenses mean the costs and expenses incurred including the costs of movement and remarking in connection with the placement of Items under a Lease Agreement.

7. Delivery. Upon execution of this Agreement, Buyer shall be deemed to have accepted the Equipment and to have consented to an assignment of the BRAE Agreement and Seller shall be deemed to have transferred title to the Equipment to Buyer.

8. Price. The purchase price for the Equipment shall be Six Hundred Thirty Thousand (\$630,000) Dollars. As provided hereinbefore, the Seller shall receive any and all revenues from the Equipment remitted by BRAE prior to the date of this Agreement and Seller shall be responsible for any and all costs and expenses incurred from the operation and/or movement of the Equipment prior to the date of this Agreement.

9. Bill of Sale. Upon execution of this Agreement and payment as provided hereinafter, Seller shall furnish Buyer a

bill of sale in a form acceptable to the parties.

10. Method of Payment. Payment of the purchase price shall be made by Buyer to Seller by check payable to Seller to be sent by overnight delivery service. Such payment shall be made no later than December 31, 1985.

11. Taxes. Buyer shall be responsible for any local, state or federal taxes imposed upon the sale, use, payment or delivery of the Equipment or any Item thereof.

12. Remedies. Seller and Buyer may exercise any remedy available under law or equity.

13. Limitation of Consequential Damages. Seller and Buyer acknowledge that it would not be unconscionable under the commercial circumstances of this Agreement to limit any award of consequential damages to any party aggrieved by breach of this Agreement in any way. Consequential damages therefore are entirely excluded from any cause of action arising out of performance of this Agreement.

14. Indemnification. Seller shall defend, indemnify, and hold Buyer harmless from and against any and all claims, actions, damages, expenses, losses or liabilities incurred by or asserted against Buyer as a result of the use, operation, possession, control, maintenance, repair or storage of the Equipment prior to the date of this Agreement.

15. Documents. Seller and Buyer agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of this Agreement.

16. Prior Agreements. This Agreement exclusively and completely states the rights of the parties with respect to the Equipment and supersedes any prior agreements and all other agreements, oral or written, with respect to this Equipment.

17. Counterparts. This agreement may be executed in several counterparts, such counterparts together constituting but one and the same instrument.

18. Governing Law. This Agreement shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania.

19. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors or assigns of the Seller and the Buyer. However, unless otherwise provided herein, Seller shall make no assignment of its rights and obligations hereunder without the prior written consent of the Buyer.

20. Authorization. Both Seller and Buyer represent each to the other that they have full power and authority to enter into this agreement and that the individuals signing below on behalf

of each have been duly authorized and empowered to execute this Agreement.

21. Execution. The actual dates of execution by Seller and Buyer are set forth below.

IN WITNESS WHEREOF, Seller and Buyer, intending to be legally bound hereby, have hereunto set their signatures on the date or respective dates set forth below.

DOLLAR BANK,
Federal Savings Bank

BIRCH LEASING CORPORATION

By: *Robert Thompson*

By: *Christopher J. Davis*

Title: Vice President

Title: VP & Treasurer

Date: December 31, 1985

Date: As of Dec. 31, 1985

AFFIDAVIT

STATE OF Pennsylvania)
)
COUNTY OF Allegheny)

On this 31st day of December, 1985, before me personally appeared Robert Tommasone, to me personally known, who being by me duly sworn, says that he is a Vice President of Dollar Bank, Federal Savings Bank, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sandra M. Wise
Notary Public

My Commission Expires

SANDRA M. WISE, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES FEB. 20, 1989
Member, Pennsylvania Association of Notaries

AFFIDAVIT

STATE OF Pennsylvania)
)
COUNTY OF Delaware)

On this 2nd day of January, 1986, before me personally appeared Christopher J. Davis to me personally known, who being by me duly sworn, says that he is a Vice President and Treasurer of Birch Leasing Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Anna Mary O'Hora
Notary Public

My Commission Expires

ANNA MARY O'HORA, Notary Public
Radnor Twp., Delaware Co.
My Commission Expires May 28, 1988

Schedule 1

<u>Description</u>	<u>Number of Items</u>	<u>Identifying Numbers</u>
Fifty-foot, 70-ton General Service Boxcars	96	LRWN 62000-62029 SBD 140490-140536 140553-140568 140816 ICG 501598-501599

Exhibit A

<u>Description</u>	<u>Number of Items</u>	<u>Identifying Numbers</u>
Fifty-foot, 70-ton General Service Boxcars	96	LRWN 62000-62029 SBD 140490-140536 140553-140568 140816 ICG 501598-501599